IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 32936 of 2006(U)

PETITIONER:

DR.LALLY M.S., AGED 33 YEARS,
W/O.MADHU P.P., RESIDING AT PATHANIPADAM,
MULANTHURUTHY, ERNAKULAM DISTRICT,
NOW WORKING AS ASSISTANT SURGEON,
GOVERNMENT HOSPITAL, MULANTHURUTHY.

BY ADV. SRI.M.P.KRISHNAN NAIR
SRI.V.B.NARAYANAN

RESPONDENTS:
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1. STATE OF KERALA, REP.BY
SECRETARY, HEALTH DEPARTMENT,
GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. DIRECTOR OF HEALTH SERVICE,
THIRUVANANTHAPURAM.

3. DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM.

4. UNIVERSITY OF KERALA,
TRILVANDRUM, REP.BY REGISTRAR.

5. KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM.

R1 TO R3 BY GOVT. PLEADER (SHRI A. J. VARGHESE)

R4 BY ADV. SHRI M. RAJAGOPALAN NAIR, SC.

R5 BY ADV. SHRI P.C. SASIDHARAN, SC, KPSC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 32936 OF 2006 U

Dated this the 14th December, 2006

JUDGMENT

Case of petitioner, in brief, is as follows:

Petitioner is working as Assistant Surgeon in the Government Hospital, Mulanthuruthy. She has M.B.B.S. And M.D. In Pharmacology. She passed the M.D. Examination in November, 2005 and the result of the same was recorded in the Minutes Book duly signed by the Examiner and sent to the fourth respondent University on the same day. Fifth respondent, Public Service Commission invited applications for appointment to the post of Senior Lecturer (Pharmacology). According to petitioner, she is qualified for attending the interview. She was issued with Ext.P4 provisional Certificate dated 7.1.2006. Ext.P5 original Degree Certificate was issued only on 19.6.2006. Petitioner has also a case based on Rule 28(bbb) of Part II KSR. She was issued Ext.P6 wherein it is stated that before interview, verification of certain documents mentioned

therein is to be done and only then she will be allowed to attend the interview. It is stated that it is endorsed in Ext.P6 further that if only the petitioner has acquired M.D. Pharmacology which she has mentioned in her application, before 29.5.2005 which is the last date for receipt of application for the post, that she need appear for the interview. It is not in dispute that in Ext.P3 Notification the last date fixed for filing of the application was 28.12.2005. Learned counsel for PSC does not dispute that the last date fixed in the Notification for receipt of applications was 28.12.2005. It is, in fact, the contention of the PSC that unless the petitioner has the qualifications at least by the last date, namely 28.12.2005, petitioner cannot be called for interview. In this regard, the standing counsel for the University sought instructions and he would submit that in fact the result of the petitioner was declared only on 6.1.2006. No doubt, counsel for PSC would point out that apparently the date 29.5.2005 made its appearance in Ext.P6 in the context of the claim of petitioner in Ext.P7 that she had appeared for the final

University Examination for the M.D. Pharmacology in May, 2005. Whatever that be, petitioner is right in contending that the last date for filing of the application being 28.12.2005, she could not be asked to produce documents showing that she has passed the Examination prior to 29.5.2005. Petitioner does not press prayers (ii) and (iii). In view of the fact that in Ext.P6 petitioner was called upon to prove possession of qualification with reference to the date 29.5.2005 which is admittedly not the last date for submitting the application in terms of the Notification, Ext.P6 to the extent it directs that petitioner need appear for the interview if only she has possessed M.D. Pharmacology Certificate prior to 29.5.2005 which was the last date fixed for receipt of the application, is quashed. Counsel for the University categorically submits that the date of publication of the result of M.D. Pharmacology Examination was 6.1.2006. Accordingly, the Writ Petition is disposed of directing that the fifth respondent will consider the matter and take a decision in accordance with law within a period of three weeks from the

date of receipt of a copy of this Judgment. The fifth respondent PSC will consider the matter with reference to the last date mentioned in the Notification for receipt of the application, namely 28.12.2005. The contention based on Rule 28 (bbb) is left open.

K. M. JOSEPH, JUDGE

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